IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

RP(FC) .No. 227 of 2006()

AGAINST THE ORDER IN CMP.326/06,327/06 IN
MC.69/2005 of 2005 OF THE FAMILY COURT, KOTTAYAM

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REVISION PETITIONER/PETITIONER/RESPONDENT

RAMACHANDRAN,
S/O.CHANDRAHASAN, IRAPPIL VEEDU,
KOCHATTUPURAM, KADAKKAL MURI, KADAKKAL VILLAGE.

BY ADV. SRI.J.JAYAKUMAR

RESPONDENTS: RESPONDENT/PETITIONER

MANJU, D/O.RADHAMONY,
MANJU BHAVAN, KIZHUNILA,
KUMMIL VILLAGE, KUMMIL MURI, KOTTARAKKARA TALUK.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P.(FC) 227 OF 2006

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Dated: 14-09-2007

O R D E R

The revision petitioner who was the respondent in M.C. 69 of 2005 on the file of the Family Court, Kottayam was set ex parte and as per the order dated 6-07-2005 the Family court directed him to pay monthly maintenance at the rate of Rs. 600/- to the respondent herein.

2. According to the revision petitioner there is no marriage between the petitioner and the respondent and it was a case of elopement and the child born to the respondent is with the revision petitioner and the respondent has subsequently eloped with one Rajeev whom she has married and she has begotten a child in that wedlock. On coming to know the order for maintenance the revision petitioner filed C.M.P. 326 of 2006 for setting aside the ex parte order with a petition C.M.P. 327/06 for condoning the delay in filing C.M.P. 326/06. The petitioner was directed to pay one-half of the maintenance awarded by that court within one month as a condition for allowing the C.M.P. Consequent on his failure to pay the amount the petition was dismissed. It is the said dismissal which is assailed in this revision.

3. This court directed the petitioner to deposit the entire arrears of maintenance before the Family Court and he has complied with the said order. Eventhough the respondent was

duly served she has not chosen to enter appearance. In as much as the petitioner has deposited the entire arrears as directed by this Court, I am of the view that the petitioner should given an opportunity to contest the case. Accordingly, the common order passed by the by the Family court in C.M.P. 326/06 and 327/06 in M.C. 69 of 2005 is set aside and both the said C.M.P's will stand allowed and the petitioner will be entitled to contest M.C. 69 of 2007. He shall file his objections to the M.C. within three weeks from today and the learned Magistrate shall dispose of the M.C. afresh after giving both sides an opportunity of being heard. The amount lying in deposit shall be retained till the final disposal of the M.C.

This R.P.(FC) is disposed of as above.

V. RAMKUMAR, JUDGE

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